

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA

THETHESIUS HOSEA MOSLEY,

Plaintiff,

v.

ZEPP,

Defendant.

Case No. 1:23-cv-00421-JLT-EPG (PC)

ORDER REGARDING SUBPOENA  
REQUEST

(ECF No. 57).

Plaintiff Thethesius Hosea Mosley is a state prisoner proceeding *pro se* in this civil rights action filed pursuant to 42 U.S.C. § 1983. This case proceeds on Plaintiff's deliberate indifference claim against Defendant Zepp.

Defendant filed a motion for summary judgment on June 20, 2024. (ECF No. 41). Plaintiff has yet to respond to the motion, despite multiple extensions. The current deadline for Plaintiff to file his response is November 29, 2024. (ECF No. 54). Primarily, the delay stems from Plaintiff's inability to access his legal materials.

Recently, Defendant responded to the Court's request for information on this issue, stating that Plaintiff was housed in the Mental Health Crisis Bed (MHCB) at California State Prison, Los Angeles County and did not have access to any property because he was admitted to the MHCB. (ECF No. 53).

Following this update, Plaintiff filed a notice of change of address on October 21, 2024, listing Kern Valley State Prison as his current prison. (ECF No. 56). On October 25, 2024,

1 Plaintiff filed a subpoena form and his own declaration. (ECF No. 57). Generally, Plaintiff states  
2 that his legal property was confiscated in July and he remains unable to access it, which prevents  
3 him from responding to Defendant's motion for summary judgment. It appears that Plaintiff  
4 wants the Court to issue a subpoena duces tecum to compel prison officials to return his property  
5 to him.

6 Defendant has filed a response to Plaintiff's filing. (ECF No. 62). Generally, Defendant  
7 recounts Plaintiff's recent transfer history and difficulties accessing his legal property. Most  
8 pertinent, Defendant represents that Plaintiff now has access to his legal property and Defendant  
9 will provide Plaintiff with pertinent documents that Plaintiff claims not to have:

10 At this time, it appears that Plaintiff has been issued his property that transferred  
11 with him. However, because Plaintiff still contends that he does not have certain  
12 documents related to this case, Defendant will provide Plaintiff with new copies of  
13 all documents previously served on Plaintiff, including Defendant's initial  
14 disclosure production, discovery responses, medical records, and Defendant's  
15 motion for summary judgment with supporting documents.

16 (ECF No. 62, p. 5).

17 Upon review of the parties' filings, IT IS ORDERED as follows:

- 18 1. To the extent that Plaintiff asks the Court to subpoena his legal materials, his request is  
19 DENIED. (ECF No. 57).
- 20 2. By no later than November 20, 2024, Defendant shall provide Plaintiff with the  
21 documents that Defendant lists above.
- 22 3. Plaintiff's deadline to respond to Defendant's motion for summary judgment is extended  
23 to **December 20, 2024**.

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1 4. If Plaintiff does not timely receive the above documents, he may file a motion for an  
2 extension of the deadline to respond to the motion for summary judgment. However, such  
3 motion shall identify the specific legal materials that Plaintiff lacks and the reasons why  
4 he cannot access them. The Court will not further extend this deadline absent good cause.

5 IT IS SO ORDERED.

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7 Dated: November 13, 2024

/s/ Eric P. Gray  
UNITED STATES MAGISTRATE JUDGE